

§ 2801.9

other people or circumstances will not be affected.

§ 2801.9 When do I need a grant?

(a) You must have a grant under this part when you plan to use public lands for systems or facilities over, under, on, or through public lands. These include, but are not limited to:

(1) Reservoirs, canals, ditches, flumes, laterals, pipelines, tunnels, and other systems which impound, store, transport, or distribute water;

(2) Pipelines and other systems for transporting or distributing liquids and gases, other than water and other than oil, natural gas, synthetic liquid or gaseous fuels, or any refined products from them, or for storage and terminal facilities used in connection with them;

(3) Pipelines, slurry and emulsion systems, and conveyor belts for transporting and distributing solid materials and facilities for storing such materials in connection with them;

(4) Systems for generating, transmitting, and distributing electricity;

(5) Systems for transmitting or receiving electronic signals and other means of communication;

(6) Transportation systems, such as roads, trails, highways, railroads, canals, tunnels, tramways, airways, and livestock driveways; and

(7) Such other necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way.

(b) If you apply for a right-of-way grant for generating, transmitting, and distributing electricity, you must also comply with the applicable requirements of the Federal Energy Regulatory Commission under the Federal Power Act of 1935, 16 U.S.C. 791a *et seq.*, and 18 CFR chapter I.

(c) See part 2880 of this chapter for information about authorizations BLM issues under the Mineral Leasing Act for transporting oil and gas resources.

§ 2801.10 How do I appeal a BLM decision issued under the regulations in this part?

(a) You may appeal a BLM decision issued under the regulations in this part in accordance with part 4 of this title.

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(b) All BLM decisions under this part remain in effect pending appeal unless the Secretary of the Interior rules otherwise, or as noted in this part. You may petition for a stay of a BLM decision under this part with the Office of Hearings and Appeals, Department of the Interior. Unless otherwise noted in this part, BLM will take no action on your application while your appeal is pending.

Subpart 2802—Lands Available for FLPMA Grants

§ 2802.10 What lands are available for grants?

(a) In its discretion, BLM may grant rights-of-way on any lands under its jurisdiction except when:

(1) A statute, regulation, or public land order specifically excludes rights-of-way;

(2) The lands are specifically segregated or withdrawn from right-of-way uses; or

(3) BLM identifies areas in its land use plans or in the analysis of an application as inappropriate for right-of-way uses.

(b) BLM may require common use of a right-of-way and may require, to the extent practical, location of new rights-of-way within existing or designated right-of-way corridors (*see* § 2802.11 of this subpart). Safety and other considerations may limit the extent to which you may share a right-of-way. BLM will designate right-of-way corridors through land use plan decisions.

(c) You should contact the BLM office nearest the lands you seek to use to:

(1) Determine whether or not the land you want to use is available for that use; and

(2) Begin discussions about any application you may need to file.

§ 2802.11 How does BLM designate corridors?

(a) BLM may determine the locations and boundaries of right-of-way corridors during the land-use planning process described in part 1600 of this chapter. During this process BLM coordinates with other Federal agencies, state, local, and tribal governments,

and the public to identify resource-related issues, concerns, and needs. The process results in a resource management plan or plan amendment, which addresses to what extent you may use public lands and resources for specific purposes.

(b) When determining which lands may be suitable for right-of-way corridors, the factors BLM considers include, but are not limited to, the following:

(1) Federal, state, and local land use plans, and applicable Federal, state, local, and tribal laws;

(2) Environmental impacts on cultural resources and natural resources, including air, water, soil, fish, wildlife, and vegetation;

(3) Physical effects and constraints on corridor placement due to geology, hydrology, meteorology, soil, or land forms;

(4) Costs of construction, operation, and maintenance and costs of modifying or relocating existing facilities in a proposed right-of-way corridor (i.e., the economic efficiency of placing a right-of-way within a proposed corridor);

(5) Risks to national security;

(6) Potential health and safety hazards imposed on the public by facilities or activities located within the proposed right-of-way corridor;

(7) Social and economic impacts of the right-of-way corridor on public land users, adjacent landowners, and other groups or individuals;

(8) Transportation and utility corridor studies previously developed by user groups; and

(9) Engineering and technological compatibility of proposed and existing facilities.

(c) BLM may designate any transportation and utility corridor existing prior to October 21, 1976, as a transportation and utility corridor without further review.

(d) The resource management plan or plan amendment may also identify areas where BLM will not allow right-of-way corridors for environmental, safety, or other reasons.

Subpart 2803—Qualifications for Holding FLPMA Grants

§ 2803.10 Who may hold a grant?

To hold a grant under these regulations, you must be:

(a) An individual, association, corporation, partnership, or similar business entity, or a Federal agency or state, tribal, or local government;

(b) Technically and financially able to construct, operate, maintain, and terminate the use of the public lands you are applying for; and

(c) Of legal age and authorized to do business in the state where the right-of-way you seek is located.

§ 2803.11 Can another person act on my behalf?

Another person may act on your behalf if you have authorized the person to do so under the laws of the state where the right-of-way is or will be located.

§ 2803.12 What happens to my application or grant if I die?

(a) If an applicant or grant holder dies, any inheritable interest in an application or grant will be distributed under state law.

(b) If the distributee of a grant is not qualified to hold a grant under § 2803.10 of this subpart, BLM will recognize the distributee as grant holder and allow the distributee to hold its interest in the grant for up to two years. During that period, the distributee must either become qualified or divest itself of the interest.

Subpart 2804—Applying for FLPMA Grants

§ 2804.10 What should I do before I file my application?

(a) Before filing an application with BLM, we encourage you to make an appointment for a preapplication meeting with the appropriate personnel in the BLM field office having jurisdiction over the lands you seek to use. During the preapplication meeting, BLM can:

(1) Identify potential routing and other constraints;